1 The Honorable Benjamin H. Settle 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 WESTERN DISTRICT OF WASHINGTON AT TACOMA 10 STATE OF WASHINGTON, 11 Plaintiff, NO. 3:17-cv-05690-BHS 12 v. 13 **DEFENDANTS' MOTION TO FILE** UNDER SEAL THEIR PROPOSED FRANCISCAN HEALTH SYSTEM d/b/a 14 FINDINGS OF FACT AND CHI FRANCISCAN HEALTH; FRANCISCAN MEDICAL GROUP; THE **CONCLUSIONS OF LAW** 15 DOCTORS CLINIC, a Professional Corporation; and WESTSOUND 16 NOTE ON MOTION CALENDAR: ORTHOPAEDICS, P.S., March 8, 2019 17 Defendants. 18 19 Defendants Franciscan Health System, Franciscan Medical Group, The Doctors Clinic, 20 and Westsound Orthopaedics, P.S. ("Defendants") move the Court pursuant to Federal Rule of 21 Civil Procedure 5.2(d) and LCR 5(g) for an order directing that unredacted versions of the 22 Findings of Fact and Conclusions of Law (and any exhibits) remain under seal.<sup>1</sup> 23 II. **BACKGROUND** 24 The parties to this case entered into a Stipulated Protective Order, which the Court 25 26 <sup>1</sup> Pursuant to LCR 10(e)(9), courtesy copies of this motion and attachments will be delivered to the Clerk's Office. DEFENDANTS' MOTION TO FILE UNDER SEAL

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

(Case No. 3:17-CV-05690-BHS)

entered on October 26, 2017 (Dkt. No. 30), which was later amended. In Defendants' Proposed Findings of Fact and Conclusions of Law filed today, Defendants rely upon documents that have been designated as confidential by Defendants, or third parties.

## III. <u>LEGAL STANDARD</u>

Under this Court's Local Rules, a party may file a document under seal "if the party files a motion or stipulated motion to seal the document before or at the same time the party files the sealed document." LCR 5(g)(2)(B). When a party cannot avoid including confidential information in a filing, the party must file a version that redacts the confidential information, and a separate unredacted version accompanied by a motion to seal. LCR 5(g)(5).

Under LCR 5(g)(1)(A), if a party seeks to file a document "under seal because another party has designated it as confidential during discovery, the filing party and the designating party must meet and confer to determine whether the designating party will withdraw the confidential designations or will agree to redact the document so that sealing is unnecessary." LCR 5(g)(1)(A). Where parties have entered a stipulated protective order, the party wishing to file a confidential document it obtained from another party in discovery may file a motion to seal but need not satisfy LCR 5(g)(3)(B), which requires an explanation of "i. the legitimate private or public interest that warrant the relief sought; ii. The injury that will result if the relief sought is not granted; and iii. Why a less restrictive alternative to the relief sought is not sufficient."

Defendants hereby certify that the majority of the information redacted in the Findings of Fact and Conclusions of Law has been designated as confidential by third parties pursuant to the Protective Order (Dkt. No. 30). Defendants have been in communication with third parties and have attempted to de-designate as much information as possible. However, the information that remains redacted is competitively sensitive information about strategy, provider networks, and reimbursement rates. The release of this information would be damaging to the third parties.

Defendants have filed on the public docket a version of the Findings of Fact and Conclusions of Law that does not reveal material that parties have designated confidential. Filing



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a redacted version of the Findings of Fact and Conclusions of Law is a less restrictive alternative to withholding the entirety of the documents from the public docket.

#### IV. REQUESTED RELIEF

In accordance with these legal standards, Defendants request that the Court enter an order pursuant to Fed. R. Civ. P. 5.2(d) and LCR 5(g)(7) directing that the unredacted versions of the Findings of Fact and Conclusions of Law remain under seal until further ordered.

/s/ Jessica M. Andrade Jessica M. Andrade, WSBA No. 39297 Polsinelli PC

Respectfully submitted,

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Respectfully submitted,

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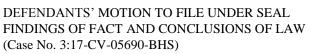
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## **CERTIFICATE OF SERVICE**

I hereby certify that on February 27, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys:

## Counsel for Plaintiff State of Washington:

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 27th day of February, 2019, at Seattle, Washington.

/s/ Jessica M. Andrade Jessica M. Andrade

